IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 323 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAJENDRASING GAYASING CHAUHAN

Versus

STATE OF GUJARAT

Appearance:

MR DJ BHATT for Petitioner

MR ND GOHIL APP for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 11/06/2001

ORAL JUDGEMENT

#. Against the judgment dated 24.4.2000 passed in Criminal Misc. Application No.633 of 2000 by the leaned Additional Sessions Judge, Ahmedabad City, Court No.4, Ahmedabad, initially revision was filed which was later

on converted into appeal.

#. Sessions Case No.47 of 1996 resulted in acquittal of the accused. The present accused is one of those accused who were acquitted by the learned Judge. Thereafter, he filed the Criminal Misc. Application No.633 of 2000 claiming Muddamal article consisting of 375 Magazines and 27 Cartridges. The said application was rejected by the learned Judge by his order dated 24.4.2000 on the ground that it amounts to review his own earlier order dated 6.5.1999.

#. Both the learned counsel for respective parties have agreed that it does not amount to review. Once the trial is concluded the learned Judge has to pass appropriate order on merits of the case regarding the Muddamal article.

#. In view of the above, this appeal is allowed. The impugned judgment dated 24.4.2000 passed in Criminal Misc. Application No.633 of 2000 below Exh.1 is hereby quashed and set aside and the matter is remanded to the learned Judge to pass fresh order in accordance with law. If the Muddamal magazines and cartridges are not destroyed then the same may not be destroyed till the learned Judge decides the application.

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